



DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-823]

Raw Honey from Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that raw honey from Argentina is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Eva Kim or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8283 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 18, 2021.¹ On August 26, 2021, Commerce postponed the preliminary determination of this investigation and the deadline is now November 17, 2021.² For a complete

¹ See *Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 86 FR 26897 (May 18, 2021) (*Initiation Notice*).

² See *Raw Honey from Argentina, Brazil, India, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 86 FR 47624 (August 26, 2021).

description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is raw honey from Argentina. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested parties submitted comments on the scope of this investigation.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated constructed export prices in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. In addition, Commerce has relied on facts available with an adverse inference (AFA) in determining a weighted-average dumping margin for Industrias Haedo S.A., and Compañía Inversora Platense S.A, and partial AFA in calculating a weighted-average dumping margin for Asociación De Cooperativas Argentinas Cooperativa Limitada (ACA), under sections 776(a) and (b) of the Act. For a full

³ See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Raw Honey from Argentina," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Initiation Notice*, 86 FR at 26897-8.

description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

On October 21, 2021, the petitioners⁶ timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of raw honey from Argentina.⁷ In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily determines that critical circumstances exist with respect to imports of raw honey from Argentina produced and exported by ACA, Industrias Haedo S.A., and Compañía Inversora Platense S.A.⁸ Furthermore, we preliminarily determine that critical circumstances exist with respect to imports of raw honey from Argentina produced and exported by all other producers and exporters.⁹ For a full description of Commerce’s preliminary critical circumstances determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall normally be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated individual estimated weighted-average dumping margins for ACA and NEXCO that are not zero, *de minimis*, or based entirely

⁶ The petitioners are the American Honey Producers Association and the Sioux Honey Association.

⁷ *See* Petitioners’ Letter, “Less-Than-Fair-Value Investigation of Raw Honey from Argentina, Brazil, and India – Petitioners’ Allegations of Critical Circumstances,” dated October 21, 2021; *see also* Petitioner’s Letter, “Less-Than-Fair-Value Investigation of Raw Honey from Argentina, Brazil, and India – Petitioners’ Response to Request for Information Pertaining to Allegations of Critical Circumstances,” dated November 5, 2021.

⁸ *See* Preliminary Decision Memorandum.

⁹ *Id.*

on facts otherwise available. Commerce calculated the all-others rate using a simple average of the estimated weighted-average dumping margins calculated for ACA and NEXCO.¹⁰

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
Asociación De Cooperativas Argentinas Cooperativa Limitada	24.28
NEXCO S.A.	7.84
Industrias Haedo S.A.	49.44
Compañía Inversora Platense S.A.	49.44
All Others	16.06

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2)

¹⁰ With more than one respondent under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly-ranged sales data was available, Commerce based the all-others rate on the publicly-ranged sales data of the mandatory respondents. For a complete analysis of the data, see Memorandum, "Less Than Fair Value Investigation of Raw Honey from Argentina: Preliminary Determination Calculation for the All-Others," dated November 19, 2021.

if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in connection with this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID-19 pandemic, Commerce is unable to conduct on-site verification in this investigation.

Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments on non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of such case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹¹ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further

¹¹ See 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

notice.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On November 9, 2021, pursuant to 19 CFR 351.210(e), ACA and NEXCO requested that Commerce postpone the final determination and that provisional measures be extended to a

¹² See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-10; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

period not to exceed six months.¹³ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its affirmative preliminary determination. If the final determination is affirmative, then the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c) and 19 CFR 351.210(g).

Dated: November 17, 2021.

Ryan Majerus,
Deputy Assistant Secretary
for Policy and Negotiations,
Performing the Non-Exclusive Functions and Duties of
the Assistant Secretary for Enforcement and Compliance.

¹³ See ACA and NEXCO's Letter, "Raw Honey from Argentina, Case No. A-357-823: Asociación de Cooperativas Argentinas C.L. and NEXCO S.A.'s Request to Postpone Final Determination," dated November 9, 2021.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.*, a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.*, in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to this investigation is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application of Facts Available and Use of Adverse Facts Available
- V. Critical Circumstances
- VI. Discussion of the Methodology
- VII. Particular Market Situation
- VIII. Currency Conversion
- IX. Recommendation

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